IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.408 OF 2006

Mr.Harish Rameshwardas Gadodia ..Appellant.
Vs.
Jasu Pritam Khanwani & Anr. ..Respondents.

Mr.A.M.Sarogi, adv. for the Appellant.
Mr.Dnyaneshwar Deshmukh, adv. for the Respondent No.1.

CORAM : J.H.BHATIA, J.
DATE : JULY 27, 2007.

P.C.:

1. Heard the learned counsel for the Parties.

2. The appellant, who is original plaintiff, had filed suit for perpetual injunction restraining the respondent no.1 from creating third party interest in the flat situated in the building of the respondent no.2/society on the ground that the plaintiff had entered into an agreement to purchase the said flat from the defendant no.1. However, pending that suit for injunction simplicitor, the defendant no.1 sold away the said flat to third party. In view of this the learned trial Court found that the suit does not survive and accordingly, the suit came to be dismissed. The dismissal of the suit has been challenged in the present appeal.

3. If the defendant no.1 wasnot willing to perform her part of the contract, the plaintiff/appellant could have filed suit for specific performance of the contract. In any case, pending the suit for injunction simplicitor, property was disposed off in favour of the third party. Therefore, no purpose could have been served by keeping that suit pending nor the plaintiff could get any injunction against the third party. I find no fault with the impugned judgment.

4. Appeal stands dismissed summarily.

[J.H.BHATIA, J.]